

Jean Gardner, Esq. (JG 5544)  
SCHINDEL, FARMAN, LIPSIOUS, GARDNER & RABINOVICH, LLP  
14 Penn Plaza, Suite 500  
New York, New York 10122  
(212) 563-1710  
Attorneys for Defendant Truxton Logistics Corp.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ASUSTEK COMPUTER, INC.,	:
	:
Plaintiff,	:
	:
08 CV 2768 (HB)	:
	:
-against-	:
	:
SHANGHAI EASTERN FUDART	:
TRANSPORT SERVICES CO. LTD.,	:
CHINA EASTERN AIRLINES CO., LTD,	:
CHINA CARGO AIRLINES, DART	:
EXPRESS (TAIWAN) LTD., ULTRA AIR	:
CARGO, INC., TRUXTON LOGISTICS	:
CORP. and M&M TRANSPORT,	:
	:
Defendants.	:
-----X	

Defendant Truxton Logistics Corp. (hereinafter "Truxton"), by its attorneys, Schindel, Farman, Lipsius, Gardner & Rabinovich, LLP, as and for its Answer to the Cross-Claims of China Cargo Airlines Ltd., states upon information and belief, as follows:

**FIRST CROSS CLAIM**

1. Denies each and every allegation contained in the nineteenth paragraph except denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the nineteenth paragraph as to all other parties.
2. Defendant refers all questions of law to the court. To the extent a further response is required, denies knowledge or information sufficient to form a belief as to the truth of each

and every allegation contained in the twentieth paragraph.

**SECOND CROSS CLAIM**

3. Denies each and every allegation contained in the twenty-first paragraph except denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the twenty-first paragraph as to all other parties.

4. Defendant refers all questions of law to the court. To the extent a further response is required, denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the twenty-second paragraph.

**GENERAL PROVISION**

5. Any and all allegations not specifically admitted herein are denied.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

16. Co-Defendant fails to state a cause of action against Truxton.

**SECOND AFFIRMATIVE DEFENSE**

7. Truxton's liability, if any, is limited by the terms and conditions of the contract(s) of carriage and any applicable tariff(s), statute(s) or regulation(s).

**THIRD AFFIRMATIVE DEFENSE**

8. Whatever shipments were received by Truxton were accepted in accordance with, and subject to all the terms and conditions of all applicable contracts, bills of lading, any applicable tariffs and classifications, and the rules set forth therein. Truxton duly performed the terms and conditions on its part to be performed. Truxton claims the benefit of all defenses accorded it by those waybills and by all other applicable contracts under which the shipment traveled.

**FOURTH AFFIRMATIVE DEFENSE**

9. In the event the Court determines any of the damage as alleged by the plaintiff actually occurred, such damage was not caused by any act or omission on the part of Truxton or its agents.

**FIFTH AFFIRMATIVE DEFENSE**

10. The loss, if any, occurred as a result of an act or default of the shipper or its agent, without any intervening action on the part of Truxton.

**SIXTH AFFIRMATIVE DEFENSE**

11. In the event that plaintiff had no, or has no, title or interest in the property that is the subject of this action, then said party is not the real party in interest herein and is not entitled to maintain this suit.

**SEVENTH AFFIRMATIVE DEFENSE**

12. Truxton exercised reasonable care at all times in connection with the shipment, which is the subject of the complaint. Truxton is not responsible for any loss or damage caused by any cause or event which could not be avoided and the consequence of which could not be prevented by the exercise of reasonable diligence.

**EIGHTH AFFIRMATIVE DEFENSE**

13. Other parties have failed to mitigate damages.

**NINTH AFFIRMATIVE DEFENSE**

24. The Court lacks personal jurisdiction over Truxton.

**TENTH AFFIRMATIVE DEFENSE**

25. Venue of this matter in this Court is improper.

**ELEVENTH AFFIRMATIVE DEFENSE**

26. This suit should be removed, dismissed and/or transferred on the basis of *forum non conveniens*.


**TWELFTH AFFIRMATIVE DEFENSE**

27. Truxton hereby reserves all of its rights to amend this answer and or supplement its affirmative defenses in accordance with any additional information developed during the course of discovery, should the case proceed.

Dated: New York, New York  
July 18, 2008

SCHINDEL, FARMAN, LIPSIUS,  
GARDNER & RABINOVICH, LLP  
Attorneys for Defendant Truxton Logistics Corp.

By:

  
Jean Gardner (JG 5544)  
14 Penn Plaza, Suite 500  
New York, New York 10122  
(212) 563-1710  
File No. 4185.0010

TO: McDERMOTT & RADZIK, LLP  
Edward C. Radzik  
Matthew T. Loesberg  
Attorneys for Plaintiffs  
Wall Street Plaza  
88 Pine Street  
New York, NY 10005  
(212) 376-6400

Andrew J. Harakas, Esq.  
CLYDE & CO. US LLP  
Attorneys for Defendants  
China Eastern Airlines Co. Ltd.,  
China Cargo Airlines and Dart Express (Taiwan) Ltd  
405 Lexington Avenue  
New York, NY 10174  
(212) 710-3900

SHANGHAI EASTERN FUDART TRANSPORT SERVICES CO. LTD.  
Defendant Pro Se  
5481 W. Imperial Highway, Suite 216  
Los Angeles, CA 90045

ULTRA AIR CARGO, INC.  
Defendant Pro Se  
555 S. Isis Avenue  
Inglewood, CA 90301

M&M TRANSPORT  
Defendant Pro Se  
1325 James Dudley  
El Paso, TX 79956

